Calvert Memorial Hospital
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July 2, 2008

Via Facsimile & Regular Mail

Ms. Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215-2229

CHS 1741

2008 JUL -3 PM 2:21

Re: Request for Change in the Acute Inpatient Rehabilitation Services Section of the State Health Plan

Dear Pam:

As a follow-up to our recent conversation regarding rehabilitation services in the Southern Maryland regional service area, I am writing this letter to formally request a change in the State Health Plan for Facilities and Services: Specialized Health Care Services – Acute Inpatient Rehabilitation Services (COMAR 10.24.09) (the "Rehabilitation Chapter"). As we discussed, Calvert Memorial Hospital ("CMH") is contemplating an expansion of its services to include rehabilitation, but the Rehabilitation Chapter as presently drafted would preclude the submission of a CON application and the opportunity to secure CON approval for a service that is presently needed, and for which CMH can demonstrate expanded needs going forward.

CMH is developing a Center of Excellence in Neurosciences and seeks to institute a Comprehensive Integrated Inpatient Rehabilitation Program ("CIIRP"). This program is being developed in conjunction with Georgetown University Hospital that provides a full-time neuro-surgeon at CMH during the week and 24/7 emergency call coverage. In addition, CMH has recruited a full-time stroke fellowship trained neurologist to manage our stroke center beginning August 2008. With our existing cadre of pain specialists including physiatrists, nurse navigators, therapists and behavioral specialists, we believe we can establish a "first class" integrated inpatient rehab program along the lines of Shore Health System. By instituting this new program focusing more heavily on neurosciences, we can provide needed services for an additional group of patients beyond what is typically provided in an inpatient rehabilitation unit.

Notwithstanding these exciting plans for expanded and improved services to the community, the Rehabilitation Chapter presently would not even permit the docketing of a CMH application. CMH is located in the Southern Maryland Regional Services Area. There is only one rehabilitation facility in this region, located at Laurel Regional Hospital, which presently has 28 licensed CIIRP beds. For reasons that are not entirely known, Laurel Regional Hospital's census has recently been lower than 50%, after steadily declining in recent years. The

Rehabilitation Chapter contains both "docketing" and "approval" rules, both of which require that before a new application may be docketed or approved, all other rehabilitation hospitals in an area with less than 49 beds must have demonstrated a minimum occupancy of 80% for the most recent 12 month period. COMAR 10.24.09.04C(1), (2). Since Laurel Regional Hospital has failed to maintain that occupancy for many years, it is presently impossible for CMH to submit an application that can be docketed or approved. We note that the last update to the Rehabilitation Chapter occurred in 2001, which undoubtedly was based upon an analysis of data and information from prior years. Thus, for all practical purposes, the data and information upon which the Rehabilitation Chapter is based have not been reevaluated or updated for nearly ten years. During that time, there have been developments in the field of rehabilitation medicine, which have led to our planning efforts to institute the Center of Excellence in Neurosciences at the Hospital.

Under these circumstances, the Rehabilitation Chapter as presently drafted is unduly restrictive and may have the unintended consequence of denying needed services to a population of rehabilitation patients that previously had not been identified. For this reason, we ask that the Commission consider a change in the Rehabilitation Chapter to remedy this shortcoming. Specifically, we suggest that the docketing and approval requirements be eliminated. The Commission's general planning regulations already require a demonstration of "need" (COMAR 10.24.01.08G); the change in the Rehabilitation Chapter would simply eliminate the barrier to consideration of new rehabilitation beds. Of course an applicant would also have to comply with the remaining general planning review criteria, including the criterion addressing "impact" on existing rehabilitation providers, as well as, all other requirements of the Rehabilitation Chapter.

We note that this is the approach that has been taken with several other Chapters of the State Health Plan, such as the Acute Hospital Inpatient Obstetric Services and The Ambulatory Surgical Services chapters. Neither of these Chapters contains docketing requirements, or need projections. However, applicants are required to demonstrate "need" as well as comply with the "impact" criterion and all other applicable regulatory criteria and standards.

If the Commission determines that this approach may not be feasible on a statewide basis, perhaps consideration could be given to waiving the CON docketing and approval requirements in those regional service areas in which only one rehabilitation program is presently operational. It is also noted that Laurel Regional Hospital serves a patient population that is geographical distant from our service area and not easily accessible for Southern Maryland residents.

If an even narrower waiver were desired, the Commission might consider waiving the CON docketing and approval requirements in such areas if the sole provider of such services in the area has failed to meet the minimum occupancy requirements for a period of at least two years. Unfortunately, one can never be certain of the reasons why an existing provider has failed

to achieve desired occupancies, and in fact has declined significantly, especially where there is no evidence that the need for such important services in rapidly growing areas has suddenly diminished. For Commission purposes, we believe it should be sufficient that there be documentation of such "under-performing" for a certain time period, as evidence that regional needs are not being met, and that consideration should be permitted for new rehabilitation capacity.

CMH planned on submitting a Letter of Intent on July 2, 2008 to establish a rehabilitation unit. However, we have determined that submission of such a Letter of Intent would be pointless, in light of the present status of the Rehabilitation Chapter. We therefore request the Commission to modify the Rehabilitation Chapter to eliminate the CON docketing and approval rules as discussed above, with the hope that this may be accomplished in sufficient time for CMH to submit a Letter of Intent on January 2, 2009, the next permissible date for proposing a rehabilitation project. We stand ready to provide whatever testimony and information you would require to assist in this undertaking.

Your attention to our request will be greatly appreciated.

Sincerely,

JAMES J. XINIS
President & CEO

cc: Frank, Monius, Assistant Vice President, MHA
Jack Eller, Attorney, Ober, Kaler, Grimes & Shriver